

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

DAVID D. HOPKINS,

Petitioner,

v.

CIVIL ACTION NO. 1:15-16492

BARBARA RICKARD, Warden,
FCI McDowell,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the court is petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. ECF No. 1. By Standing Order, the matter was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and recommendations ("PF&R") for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). On June 11, 2018, the magistrate judge submitted his PF&R, in which he recommended that the district court dismiss petitioner's petition as moot, and remove the matter from the court's docket. ECF No. 6.

In accordance with the provisions of 28 U.S.C. § 636(b), petitioner was allotted fourteen days, plus three mailing days, in which to file any objections to Magistrate Judge Tinsley's Findings and Recommendation. The failure to file such objections constitutes a waiver of the right to a de novo review

by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Neither party has filed any objections to the PF&R within the seventeen-day period. Accordingly, having reviewed the PF&R, the court hereby adopts the factual and legal analysis contained therein, as follows:

1. Petitioner's petition for a writ of habeas corpus is **DISMISSED** as moot because the court lacks jurisdiction to provide him with any relief since his requested relief has already been granted in petitioner's court of conviction, (ECF No. 1); and
2. The Clerk is **DIRECTED** to remove this case from the court's active docket.


Additionally, the court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing

standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of record and petitioner, pro se.

It is **SO ORDERED** this 5th day of September, 2018.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge